IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.PADMANABHAN NAIR

MONDAY, THE 16TH JULY 2007 / 25TH ASHADHA 1929

WP(C).No. 9691 of 2007(D)

LAR.26/2005 of SUB COURT, HOSDURG

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PETITIONER:

D.VASANTHI,AGED 62 YEARS,RESIDING AT
B.P NILAYAM,MALLINGAMADU,CHITHARI VILLAGE,
(P.O) CHITHARI,HOSDURG TALUK,KASARGODE DISTRICT.

BY ADV. SRI.A.DINESH RAO

RESPONDENTS:

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1. **THE SPECIAL TAHSILDAR (L.A),**
   KASARGOD.

2. **THE DISTRICT COLLECTOR,KASARGOD.**

3. **THE MANAGING DIRECTOR,B.R.D.C,**
   KANDARI KOVIL ROAD, (P.O),THIRUVANANTHAPURAM.

BY ADV. SRI.M.VIJAYA KUMAR, SC for R3
BY GOVERNMENT PLEADER SRI. L.G.SURESH BABU for R1&R2

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 16/07/2007,THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.9691/2007 D

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: COPY OF THE CLAIM STATEMENT DTD. 17/11/2005 FILED BY THE PETITIONER.

EXT.P2: COPY OF THE I.A.NO.1001/2006 DTD. 27/09/2006 FILED BY THE PETITIONER TO SET ASIDE THE ORDER DTD. 31/08/2006.

EXT.P3; COPY OF THE COUNTER FILED ON BEHALF OF THE RESPONDENTS DTD. 25/11/2006.

EXT.P4; COPY OF THE ORDER IN L.A.R.NO.26/2005 DTD. 23/01/2007.

/TRUE COPY/

KSS

K.PADMANABHAN NAIR, J.

W.P.(C) No.9691 of 2007

Dated this the 16th day of July 2007

JUDGMENT

This writ petition is filed to quash an order passed in I.A 1001/2006 in L.A.R. 26/2005. The petitioner's land was acquired for a public purpose. Dissatisfied with the compensation awarded, the petitioner filed a reference under Section 18 of the Land Acquisition Act before the court below. The matter was referred to the Land Acquisition Court for considering the claim for enhancement. The case was posted to 31-8-2006 for evidence . On that day the petitioner and counsel were absent. Hence the reference was dismissed for default. The petitioner filed I.A. 1001/2006 to restore the LAR . That application was also dismissed on 23-1-2007. Challenging that order this writ petition is filed.

2. It is settled position that a reference made by the Collector for land acquisition cannot be dismissed for default. Even in the absence of claimant the court is bound to consider the claim on its merits and answer the reference. So the dismissal of the LAR for default was without jurisdiction and liable to be set aside. The reasons stated by the Land Acquisition Court for dismissing the restoration application is also illegal.

It is only just and proper that the order passed by the court below dismissi I.A. 1001/2006 is set aside and the I.A. is allowed.

3. In the result, the Writ Petition is allowed. The order passed by the court below dismissing I.A 1001/2006 in L.A.R. No. 26/2005 is hereby set aside. That I.A. is allowed. The order passed by the court below dismissing LAR 26/2005 for default is also hereby set aside. The Subordinate judge is directed to take the L.A.R. back to file and dispose of the same afresh in accordance with law after affording reasonable opportunity to both sides to adduce evidence.

K.PADMANABHAN NAIR,JUDGE

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